

REMARKS

The application has been amended and is believed to be in condition for allowance.

Amendments to the Application

Claim 13 is amended to recite the lateral annular wall, the at least one first portion, and the at least one second portion being formed of a film material, and configured to completely surround a periphery of a food packaging. The amendment finds support in the specification and the drawing figures as originally filed (e.g., page 6, lines 1-5; page 1, lines 23-26) and does not introduce new matter.

Claim 15 is amended to overcome the Official Action's rejection under 35 USC 112, second paragraph, as further provided below. The amendment finds support in the specification and the drawing figures as originally filed (e.g., Figures 1-3) and does not introduce new matter.

New claim 24 depends from claim 15 and also finds support in the drawing figures as originally filed (e.g., Figures 1-3). New claim 24 does not introduce new matter.

The amendments to claims 13 and 15 and the new claim 24 are directed toward the elected claim Group I drawn to a decorative band.

Formal Matters - Section 112, second paragraph

The Official Action rejected claim 15 under 35 USC 112, second paragraph as being indefinite. In particular, the

Official Action stated that the recitation of a wavy line is indefinite as it may be "held at the discrepancy of an individual".

In response, claim 15 has been amended in a manner believed to overcome the Official Action's formal rejection. In particular, claim 15 is amended to recite an undulating line extending in a first direction and undulating in a second direction perpendicular to the first direction.

Substantive Issues - Section 102

The Official Action rejected claims 13-16 under 35 USC 102(b) as being anticipated by Virog et al. (US 4,046,275; "VIROG").

In response, it is firstly noted that claim 13 has been amended, as indicated above. It is respectfully submitted that VIROG fails to teach a decorative band as recited by claim 13 as amended.

For example, it is respectfully submitted that BIROG fails to teach or suggest a decorative band as recited formed of film material, as required by amended claim 13.

On the contrary, VIROG discloses at column 4, lines 43-45 a decoration made by printing on the bottle. Further, although element 56 of Figure 1 designates a low shoulder of various aesthetic or informative configuration, neither this disclosure nor any other in the specification or drawing figures

of VIROG teach or suggest a film material, e.g. applied on the wall of the bottle.

In addition, it is respectfully submitted that VIROG fails to teach a first portion of a minimum width and a second portion of a maximum width as claimed.

On the contrary, VIROG teaches the width of the "band" (Figure 4, annular groove 16) as constant and narrow.

Even if the web forming the annular groove 16 has a transversal extension which varies because of the depth of the groove varies, this disclosure cannot be compared to the width of a decorative band as recited. For example, the web as disclosed by the reference would not teach or suggest a structure with one edge characterized as a straight line and the opposite edge being characterized as an undulating line.

For at least the reasons foregoing, it is respectfully submitted that VIROG does not teach or suggest the features recited in amended claim 13, nor does VIROG teach the features recited in the claims depending from claim 13.

Accordingly, it is respectfully submitted that claim 13 is patentable and that the rejection of claim 13 should be withdrawn.

It is further respectfully submitted that claims depending from claim 13 are patentable at least for depending from a patentable parent claim, based at least on the reasons set forth above.

Reconsideration and allowance of the claims are respectfully requested.

It is further noted that the claims as presented are patentable over the previously cited reference Benzon (US 3,260,871) as this reference fails at least to teach the first longitudinal edge being rectilinear, and a minimum width of a second portion of the band being between one third and two thirds of a maximum width of at least one first portion of the band.

From the foregoing, it will be apparent that Applicant has fully responded to the May 8, 2009 Official Action and that the claims as presented are patentable. In view of this, Applicant respectfully requests reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, it is requested that the Examiner telephone the attorney for Applicant at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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